

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MICHAEL AND CAROL CONOVER

COMPLAINANTS

VS.

INTER-COUNTY RURAL ELECTRIC COOPERATIVE
CORPORATION AND KENTUCKY UTILITIES COMPANY)

DEFENDANTS

CASE NO. 90-232

ORDER TO SATISFY OR ANSWER

On August 6, 1990, the Commission received a "Petition to Modify Boundary Line of Certified Territory Under KRS 278.018," a copy of which is attached hereto as Exhibit A. After reviewing the Petition, the Commission on its own motion will treat the said petition as a complaint pursuant to KRS 278.260. The named Defendants shall be Inter-County Rural Electric Cooperative Corporation and Kentucky Utilities Company. Pursuant to 807 KAR 5:001, Section 12, Inter-County Rural Electric Cooperative Corporation and Kentucky Utilities Company are HEREBY ORDERED to satisfy the matters complained of or file a written answer to the complaint within 10 days from the date of service of this Order.

Done at Frankfort, Kentucky, this 15th day of August, 1990.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Director


For the Commission



304 North Main Street • Harrodsburg, Kentucky 40330 • 606/734-4393

July 30, 1990

Mr. Lee MacCracken
Executive Director
Public Service Commission
Commonwealth of Kentucky
730 Schenkel Lane
P.O. Box 615
Frankfort, Kentucky 40602

RECEIVED

AUG 6 1990

PUBLIC SERVICE
COMMISSION

RE: Boundary line modification
Certified territory
KRS 278.018

Dear Mr. MacCracken:

Please accept and file the enclosed Petition that my wife and I are filing with the Public Service Commission.

For reasons stated in the Petition, it is our belief that the public interest will be served, the duplication of electric lines and facilities avoided and community aesthetics maintained by the granting of this Petition.

Please understand that I have very little knowledge in this area; but, will do everything that your staff requires or requests in terms of modifications and submissions to present this matter for determination. I thank you in advance for your attention and filing the Petition.

With kind regards,


Michael Conover
Carol Conover

MC/lmp

RECEIVED

PUBLIC SERVICE COMMISSION
COMMONWEALTH OF KENTUCKY
FRANKFORT, KENTUCKY

AUG 6 1990

PUBLIC SERVICE
COMMISSION

IN RE:

MICHAEL AND CAROL CONOVER
INTER COUNTY RURAL ELECTRIC COOPERATIVE CORPORATION
KENTUCKY UTILITIES COMPANY

PETITION TO MODIFY BOUNDARY LINE
OF CERTIFIED TERRITORY UNDER KRS 278.018

Come the Petitioners, Michael Conover and Carol Conover, husband and wife, of 304 North Main Street, Harrodsburg, Kentucky and state that they are owners of a approximately 300 acres near the southwest city limits of the City of Harrodsburg, along U.S. 127, with approximately 95 acres within the city limits of the City of Harrodsburg. A map of the area, including the approximate boundary line between the certified territory between K.U. and Inter County RECC, is attached hereto, and marked as Exhibit A.

The land owners, Petitioners herein, state that they are in the process of developing the acreage annexed to the City of Harrodsburg with various lots and streets extending westwardly into a commercial park on the west side of U.S. 127. This portion of the Petitioners' property, together with the approximate location of various electrical utility lines, is shown on a plat thereof, attached hereto and marked as Exhibit B.

As indicated on Exhibit B the property of the Petitioners' is subject to significant utility presence by Kentucky Utilities. Along the entire north boundary of the subject property, of over one-half (1/2) mile, there is a 12

MICHAEL CONOVER

K.V. Kentucky Utilities feeder circuit. Likewise, there is a 12 K.V. feeder line as shown on the plat which services Wal-mart and Kroger. Both sides of U.S. 127, the major highway fronting the property, are occupied by Kentucky Utility easements. The lines on the east side serve a sewer pump station and provide 12 K.V. service. Those on the west right-of-way of U.S. 127 link a series of street lights and provide regular 120 V service. The remaining Kentucky Utilities electrical presence on the property consist of a major Kentucky Utility transmission line from the E.W. Brown Generating Plant which divides on the subject property, with one (1) section going to Lebanon and the other to Hardin County.

Inter County Rural Electric Cooperative Corporation serves barns and houses on the remainder of the Petitioners' farm; and, on the 95 acres made subject to this Petition; the RECC has a primary line to the farm house; and, provides a 12 K.V. Section which serves a part of Commerce Park section II. See Exhibit B.

Petitioners' are in the process of developing a commercial park in the 95 acre tract; and, two (2) sections have been completed and are designated as Commerce Park I and Commerce Park II on Exhibit B. Approximately the eastern half of the property is to be designated for commercial purposes; and, the remainder of the 95 acres, consisting of approximately 45 - 50 acres is to be designated for residential use (approximate locations of existing and

proposed streets are indicated on Exhibit B).

NOW, THEREFORE, these Petitioners respectfully request the Public Service Commission to redefine the certified territory of Kentucky Utilities Company and Inter County Rural Electric Cooperative Corporation pursuant to KRS 278,018.

PETITIONERS REQUEST THAT INTER-COUNTY RECC'S SERVICE TO THE EFFECTED AREA BE REDUCED AND LIMITED ONLY TO COMMERCE PARK SECTION II, AS INDICATED ON EXHIBIT B. PETITIONERS REQUEST THAT THE REMAINDER OF THE PROPERTY SHOWN ON EXHIBIT B, CONSISTING OF ALL OTHER ACREAGE SHOWN ON EXHIBIT B BE INCLUDED WITHIN THE CERTIFIED TERRITORY OF KENTUCKY UTILITIES. THAT KENTUCKY UTILITIES COMPENSATE INTER COUNTY RECC FOR THE VALUE AND LOSS OF THE PRIMARY SERVICE TO THE FARM HOUSE WHICH IS SHOWN ON EXHIBIT B.

In support of the Petition, and pursuant to the authority of KRS 278.018 and Owen County Rural Electric Coop. Corp. v. Public Service Commission, 689 S.W. 2d 599 (Ky. Ct. App. 1985), the Petitioners state:

1. Pursuant to the criteria of KRS 278.017(3), the more convenient utility with proximity to serve the area, subject to this request, is Kentucky Utilities. In fact, if the Commission will refer to the space marked with a "1" on Exhibit B, it is a site for a proposed fast-food restaurant. At the present time there is a 12 K.V.. Kentucky Utility line adjacent to the restaurant site. However, the actual restaurant building falls within the service territory of

the RECC. A quick reference to Exhibit B will show that the RECC has no easement or route to reach the proposed restaurant. RECC has no policy of hanging electric lines from Kentucky Utilities poles. Kentucky Utilities' occupies both sides of U.S. 127. Therefore, these Petitioners are faced with a loss of valuable commercial property to provide an easement to RECC or risk losing an immediate sale of their existing property.

2. The first utilities to serve the area was probably the RECC, as they provided primary service to the farm house. However, following a major relocation of U.S. 127 in the 1950's Kentucky Utilities began to construct the grid of electrical service which is shown on Exhibit B. The extension of the RECC 12 K.V. service to Commerce Park II occurred with the building of the State Bank, as shown on Exhibit B, in the early 1980's. Thus, in a very real sense, the provision of commercial service by Kentucky Utilities was first.

3. Regarding the statutory standard of KRS 278.017(3) (c), these Petitioners would state that Kentucky Utilities is the only utility able to use existing distribution lines to provide dependable, high quality retail electric service at reasonable costs to the affected area. There are several reasons for this conclusion by the Petitioners; but, those reasons become more apparent as the Commission considers Exhibit B.

Previous mention has been made of the fast-food restaurant locating at the location marked "1" on the plat; it is readily apparent that a 12 K.V. line situated on the boundary of the property is far superior to the "voodoo engineering" of the RECC in proposing an unnecessary easement across the remaining commercial frontage of these Petitioners. In addition, because the fast-food restaurant requires three-phase service, that customer will have to provide the unnecessary cost of the entire RECC line if service is provided by the RECC. In addition, the RECC rate over 10,000 kwh per month is .05152; but, the Kentucky Utilities L.P. rate for the first 500,000 kwh is .02921.

That location marked as "2" on Exhibit B is the location of a proposed sewer pump station. This pump requires 3-phase service, the same type of service required by the fast-food restaurant at "1". However, where the RECC might make a reasonable argument that the user should pay the cost of extension for three-phase to location "1"; when the same analogy is applied to location "2", the prohibitive nature of the cost becomes very apparent. There is no RECC three-phase service within one-half mile; and, it must be remembered that these Petitioners intend to keep all utilities within the development underground (three-phase would be prohibitive for these Petitioners to run that distance underground). Then, note, that the Kentucky Utilities three-phase line is within 50 feet of the sewer pump at location "2".

Finally, as stated previously, slightly more than one-half of the Commerce Park is intended for commercial use. The remainder is an up-scale mixed high and low density residential area. All utilities are underground and proposed street lighting consist of "designer" aluminum poles. When RECC was informed of the aesthetics desire for the street light poles, they quickly informed these Petitioners that they allowed only plain wooden poles. Likewise, it appeared to these Petitioners that the RECC was so intent on avoiding underground service that they had a predatory pricing and installation structure required for underground utilities.

For all of the above reasons, particularly for the reasons of economy, availability and aesthetics these Petitioners submit that Kentucky Utilities is the preferred provider for all of the 95 acre commercial park with the exception of, Commerce Park II.

4. For all of the foregoing reasons, Petitioners respectfully urge that the fairest interpretation of KRS 278.017(3)(d) discloses that a grant of certification to Kentucky Utilities will prevent the duplication of electric lines and facilities serving the territory. Many of the Kentucky Utility lines are major feeder and transmission facilities and are not subject to relocation. On the other hand, the RECC has only a very limited presence in the area of this Petition. These Petitioners would also like to remind the Commission and the RECC that the remainder of the Petitioners' farm consisting of over 200 acres is not

subject to this Petition and will remain within the service area of the RECC.

WHEREFORE, for all the reasons previously stated, these Petitioners respectfully request the Public Service Commission for the Commonwealth of Kentucky to recertify the electric utility boundary between Kentucky Utilities and Inter-County Rural Electric Cooperative Corporation as set forth in this Petition.

This the 1st day of August, 1990.



MICHAEL CONOVER

CAROL CONOVER

CERTIFICATE OF SERVICE

This is to certify that a true and accurate copy of the foregoing Petition was served by mailing same to: Inter County RECC, Hustonville Road, Danville, Kentucky 40422 and Kentucky Utilities, 315 North Main Street, Harrodsburg, Kentucky 40330; this the 1st day of August, 1990.



MICHAEL CONOVER, PETITIONER

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